



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

January 18, 2013

GRANT

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Rosette Samuel**
Tax Registry No. 927469
Citywide Traffic Task Force
Disciplinary Case No. 2011 5185

The above named member of the service appeared before Assistant Deputy Commissioner Claudia Daniels DePeyster on September 26, 2012 and was charged with the following:

DISCIPLINARY CASE NO. 2011-5185

1. Said Police Officer Rosette Samuel, while assigned to the Citywide Traffic Task Force, on or about June 1, 2011, while on-duty, was late for an appearance at Traffic Court, to wit: said Police Officer having received a notification to appear at Manhattan South Traffic Violations Bureau at 1030 hours, did not appear until 1135 hours, resulting in the dismissal of twelve (12) summons cases.

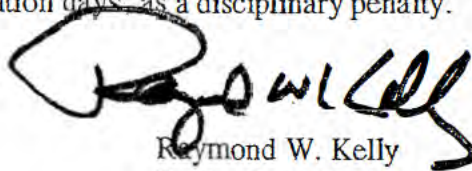
P.G. 203-03, Page 1, Paragraph 3 COMPLIANCE WITH ORDERS
P.G. 203-10, Page 1, Paragraph 5 PROHIBITED CONDUCT

2. Said Police Officer Rosette Samuel, while assigned as indicated in Specification #1, on or about March 23, 2010, March 30, 2010, April 2, 2010, April 8, 2010, July 22, 2010, August 20, 2010, September 14, 2010, September 16, 2010, October 6, 2010, October 8, 2010 and January 28, 2011, did fail to make complete entries related to the above-referenced summonses in her Department issued memo book.

P.G. 212-08, Page 1, Paragraph 1 ACTIVITY LOGS
P.G. 209-09, Page 3, Paragraph 19 PERSONAL SERVICE OF SUMMONSES
RETURNABLE TO TRAFFIC VIOLATIONS
BUREAU OR CRIMINAL COURT

In a Memorandum dated December 6, 2012, Assistant Deputy Commissioner Claudia Daniels-DePeyster found Police Officer Samuel Guilty of Specification Nos. 1 and 2, in Disciplinary Case No. 2011-5185. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

As a veteran officer assigned to the Citywide Traffic Task Force, Police Officer Samuel's misconduct was irresponsible and warrants a greater penalty. Therefore, the Respondent is to forfeit twenty (20) vacation days as a disciplinary penalty.



Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

December 6, 2012

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Rosette Samuel
Tax Registry No. 927469
Citywide Traffic Task Force
Disciplinary Case No. 2011-5185

The above-named member of the Department appeared before me on September 26, 2012, charged with the following:

Disciplinary Case No. 2011-5185

1. Said Police Officer Rosette Samuel, while assigned to the Citywide Traffic Task Force, on or about June 1, 2011, while on-duty, was late for an appearance at Traffic Court, to wit said Police Officer having received a notification to appear at Manhattan South Traffic Violations Bureau at 1030 hours, did not appear until 1135 hours, resulting in the dismissal of twelve (12) summons cases.

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COMPLIANCE WITH ORDERS
PROHIBITED CONDUCT

2. Said Police Officer Rosette Samuel, while assigned as indicated in Specification # 1, on or about March 23, 2010, March 30, 2010, April 2, 2010, April 8, 2010, July 22, 2010, August 20, 2010, September 14, 2010, September 16, 2010, October 6, 2010, October 8, 2010 and January 28, 2011, did fail to make complete entries related to the above-referenced summonses in her Department issued memo book.

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P.G. 209-09 Page 3, Paragraph 19

ACTIVITY LOGS
PERSONAL SERVICE OF SUMMONSES
RETURNABLE TO TRAFFIC VIOLATIONS
BUREAU OR CRIMINAL COURT

The Department was represented by Michelle Alleyne, Department Advocate's Office. Respondent was represented by Michael Martinez, Esq.

Respondent, through her counsel, pleaded Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent has been a member of the New York City Police Department for approximately 12 years and is currently assigned to the Citywide Traffic Task Force, where she has worked for almost 12 years. Upon graduation from the Police Academy she was assigned to the 71 Precinct for five months and then transferred to her current command.

Her duties and responsibilities at the Task Force include summons enforcement and she stated, "I'm assigned to a taxi unit. So I basically write the yellow cabs." Sometimes she rides with a partner and sometimes she is by herself. Respondent testified that she writes approximately 12 summonses daily, since April of this year, when she is performing her enforcement duties. Prior to April, she did many Atlas checkpoints and summons enforcement. Prior to April she would issue five to ten summonses on a daily basis. Respondent testified that she writes approximately 150 to 200 summonses a month. Respondent stated that as part of her duties she has to respond to and testify at

traffic court. Respondent testified that she is called down to traffic court, "at least once a month" and that it has been that way her whole career in her assignment at the Manhattan Traffic Task Force. Respondent has been going to traffic court about once a month to testify for the past 11 years. Respondent said that in the course of her career she has written "thousands" of moving violations and that she has gone to court in order to testify "numerous times." Respondent stated that she has never been the subject of Charges and Specifications nor has she ever been modified in her career.

Respondent testified that she was working on June 1, 2011, performing a 6:10 a.m. to 2:45 p.m. while assigned to an Atlas checkpoint. Respondent in describing what the Atlas checkpoint entailed stated, "the location is chosen for the checkpoint where you do every 20th car, every 3rd truck, every rental vehicle, or anything with a violation." Respondent stated that the purpose of stopping those cars was because it is a vehicle safety checkpoint. Respondent said that she gets assigned that specific post "sometimes every day" and on this date she was assigned to the Queensborough Bridge at 59 Street and Second Avenue. Respondent noted that she was scheduled to appear in court that day and that she had found out that she was required to appear when she had received a phone call at 11:07a.m., advising her of that fact. Respondent further noted that prior to that day she had been told about court, stating "like two weeks before that." Respondent testified that she was given the notification to appear two weeks later in court and stated, "I was given a piece of paper that I had to sign and give back to the Desk Officer." Respondent said that it was her responsibility to remember that she had to appear in court in two weeks, stating the responsibility was "mine."

On June 1, 2011, Respondent was supposed to be in traffic court at 10:30 a.m. and she had appeared there at 11:35 a.m. She did not go to court when she was supposed to because, "I forgot." Respondent testified that she was performing the Atlas checkpoint when she should have been in court. She did not have any reason why she did not want to go to court nor did she prefer to be on the Atlas checkpoint. Respondent was reminded that she had to appear in court because roll call had called her at 11:07 a.m. Upon realizing that she had to be in court, Respondent advised her sergeant who was on the checkpoint, and he drove her down to court. Respondent acknowledged that the sergeant picked her up and took her to court, but it was too late. Respondent testified that when she arrived, court was completed and they had dismissed the cases she was supposed to appear on.

With respect to Specification No. 2, Respondent stated that in her official Department interview, it was pointed out to her that her Activity Log entries were incomplete. Respondent further stated, "I didn't have all the information from the summonses that I wrote." Respondent said that the Department requires that with respect to each summons that you write, "You have to put the summons number, the name of the person, the description of what happened, where it took place." Respondent testified that in relation to Specification No. 2, it was pointed out to her that her entries were wrong, regarding the description from the summonses and what occurred. Respondent said she had some of the information, but not everything. Respondent also said that since this was pointed out to her at her official Department interview, she now does her Activity Log "complete." Respondent initially testified that her supervisor does not check on her from time to time to ensure that she is doing everything. Respondent then acknowledged that

her supervisors check her Activity Log and stated, "Yes, they check it when they come to check on your post." Respondent testified that there have been no further issues in regard to her Activity Log. Respondent stated that she still attends traffic court on a regular basis and has not missed court since June 1, 2011. Respondent testified that they remind you at roll call that you have to attend court but on June 1, 2011 she was not reminded verbally. Respondent acknowledged that ultimately it is her responsibility to get to court and what she has learned from this experience is that she has to "pay attention to what I have to do." Respondent stated, "I admit I am guilty for not showing up to court, but I think the 15 days is a lot because I honestly didn't remember to go." Respondent agreed that it would be fair to say that she would have a better time using those vacation days somewhere else.

During cross-examination, Respondent testified that she writes approximately 150 to 200 summonses on a monthly basis, if she does 12 a day. Respondent acknowledged that she has been with the Citywide Task Force for almost all of her 12 years with the Department. Respondent acknowledged that she has been going to traffic court to testify at least once a month and that she is familiar with the procedures of attending traffic court; as far as checking in, where you are supposed to go and what type of testimony is required during those hearings. Respondent also acknowledged that she had never received Charges and Specifications in the past, aside from this case, but she did receive a command discipline in 2010, for failure to attend traffic court on one occasion in 2010. Respondent did not remember how many cases were dismissed based on that failure to appear in 2010 nor did she recall ever receiving a notification to attend traffic court.

Respondent testified that her failure to appear at traffic court back in 2010 was due to the fact that she was assigned to the Range that day.

Respondent acknowledged that she did receive a notification to appear at traffic court on June 1, 2011, and that she was working the Atlas checkpoint on that date. She worked the Atlas checkpoint with two other officers. Respondent admitted that while assigned to the Atlas checkpoint on June 1, 2011, she did not make any arrests at any time nor did she assist any of the other officers with any arrests during her tour.

Respondent further acknowledged that while she was at the Atlas checkpoint she was checking vehicles as they were coming in and she did not complete any paperwork while assigned there. Respondent was also not given any additional duties by a supervising sergeant while assigned to the Atlas checkpoint. Respondent agreed that she received a phone call at 11:07 a.m. from roll call telling her that she was late for court and while she was at the Atlas checkpoint she did not have any applicable materials with her, specifically her Activity Log and summonses that she needed to testify at court. Respondent did not remember, when she responded to the Atlas checkpoint on June 1, 2011, that she had court at all that day.

Respondent admitted that she goes to traffic court at least once a month.

Respondent stated that the procedure she had in place prior to June 1, 2011 to help her prepare for these appearances which she had monthly, "Was to get the summonses, pull them before, prior, get the memo book, compare what I have to do." She would do all of this, usually the weekend before the upcoming court date. Respondent testified that when she received the notification on May 18, 2011 to appear at Manhattan South Traffic Court

on June 1, 2011 she did not pull the summonses for that court appearance and she stated the reason she did not pull them was because, "I didn't remember."

Respondent testified that her practice prior to denoting the circumstances of traffic summonses she issued in her Activity Log was that she usually put them in after the checkpoint was over. Respondent also testified that it was her practice to make entries of pertinent information on the back of the summons. Respondent denied that she failed to make complete or any entries in her Activity Log, because she had made entries on the back of the summons. Respondent testified that she did not follow the procedure of denoting the complete information in her Activity Log because she stated, "When you are doing the checkpoint, it's hard to stop to do the complete entries. And by the time the checkpoint is finished, sometimes you don't remember everything you did." Respondent acknowledged that it would be fair to say that it was an oversight on her part and she forgot again.

Upon questioning by the Court, Respondent testified that at the Atlas checkpoint you are standing facing the traffic that is coming and when you pull a vehicle over you inform the motorist of why you stopped him and you ask for his license and registration. Respondent further testified that you perform a check of the license and make sure everything is okay and if it is a commercial vehicle you check the back and look to see if there is anything suspicious, but you do not have to check the bottom or go around the vehicle. Respondent did acknowledge that you do open the back of the vehicle. Respondent also acknowledged that she considers the Atlas checkpoint an active post and she does not get much time to sit down. Respondent agreed that on June 1, 2011 she did go to roll call before she reported to the Atlas checkpoint and she was not reminded that

she had to go to traffic court. Respondent testified that other than the instance in 2010 where she received a Command Discipline, she did not recall missing any other days in traffic court. Respondent acknowledged that for the past 12 years she has been doing this job.

Upon continued cross-examination, Respondent was asked if on prior dates where she had traffic court, had she ever been notified by roll call to appear, and Respondent stated, "No."

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on September 29, 2000. Information from her personnel file that was considered in making this penalty recommendation is contained in attached confidential memorandum.

Respondent has pleaded Guilty to arriving late to an appearance at Manhattan South Traffic Violations Bureau resulting in the dismissal of 12 summons cases. She has also pleaded Guilty to failing to make complete entries in her Activity Log on various dates between March 23, 2010 and January 28, 2011. The Assistant Department Advocate asked for a penalty of the forfeiture of 15 vacation days and cited the following cases: *Case No. 2011-5159* (June 27, 2012), where a summons officer had four cases dismissed in court and received a ten-day penalty; and *Case No. 2012-7291* (Oct. 15, 2012), where a highway summons officer, with no prior disciplinary record had 14 of his cases dismissed at the Traffic Violations Bureau based on human error when he

inadvertently brought the wrong docket with him to court. His case was negotiated for a ten-day penalty, but it was rejected and the renegotiated penalty offer of 30 vacation days was imposed.

Respondent testified in mitigation to these charges. She was straight-forward in noting that with respect to Specification No. 1, she had received a notice to appear in Traffic Court about two weeks prior and simply forgot about it on the court date. She explained in detail that she works in Manhattan Traffic Task Force and most days, including the incident date June 1, 2011, she worked an Atlas checkpoint where her responsibilities included checking trucks for any suspicious transport, verifying the license and registration information of drivers and issuing summonses where needed. It was a hands-on assignment and Respondent noted that she had little down time.

Respondent further testified that she had this assignment the morning of her date to appear in Traffic Court. Respondent acknowledged that although the onus was on her to remember her court date, she did appear for roll call that date and was not reminded that she had a Traffic Court appearance. Respondent further testified that since the time of her receiving Charges and Specifications, her command now reminds her of upcoming court appearances.

In this instance, Respondent was actually performing her official police duties when she failed to appear on time in traffic court because she simply forgot about the notification while performing checkpoint duties. Once Respondent was advised of the court appearance, she immediately notified a supervisor and was driven to the court, but she arrived after her cases were called on the calendar. The Department seems to have

recognized the nature of performing duties at the Atlas checkpoint because Respondent is now reminded of upcoming court appearances.

With respect to Specification No. 2, Respondent testified that she failed to make complete entries in her Activity Log regarding summonses that she issued. She explained that while working the Manhattan Traffic Task Force posts, it is difficult at that time to make detailed entries on the issuance of summonses when traffic is being directed and vehicles have to be inspected by her. She further explained that she would wait until the checkpoint ended to complete her entries in her Activity Log and at times, she would forget all of the details given the amount of summonses she issued on a daily basis (approximately 12). In this instance, Respondent still acknowledged that it was her responsibility to make complete entries in her Activity Log regarding each summons that she issued.

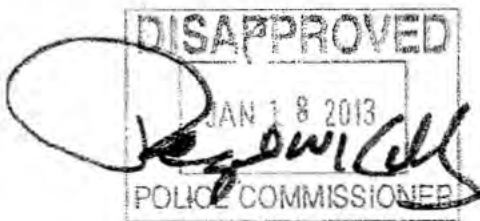
The Court agrees that the cases cited by the Assistant Department Advocate (Advocate) which range in penalty from ten to 30 vacation days are on point. Yet, consideration of Respondent's specific situation must be taken into account when making a recommendation as to penalty. Respondent is a 12-year member of the Department who has been working for 12 years in Citywide Traffic Task Force. She issues between ten and twelve summonses a tour, five days a week, amounting to approximately 200-250 summonses a month. For 12 years Respondent has been performing at this pace and she has never been the subject of formal discipline. Given the sheer volume of summonses issued by this member, if she appeared late to one court date because she overlooked it in error, it is very likely that she would have many cases on the calendar that she missed dismissed. This tribunal considers the sheer volume of work that Respondent generates

on a daily basis to be a mitigating factor in determining an appropriate penalty in this matter.

In addition, the type of work that Respondent performs at the Atlas checkpoints is very active. Respondent testified that she has this checkpoint about every tour. She explained the difficulty during her tour to make complete Activity Log entries. The Court considers the nature of Respondent's line of work as a mitigating factor when determining an appropriate penalty in this matter. Moreover, Respondent was emotional and remorseful about these charges as she testified before this tribunal. She testified that she has corrected how she handles her Activity Log and now thoroughly completes her entries. It is important to note that Respondent has a duty to keep complete and accurate information in her Activity Log regarding the summonses she issues given the volume of summonses she generates. She will have a difficult time in court recalling the specifics of each case without a thorough Activity Log entry.

Given the recent cases cited by the Advocate, the mitigating factors noted, and Respondent's service record, the recommended penalty of the Assistant Department Advocate is not, on balance, unreasonable and therefore that is the recommendation of this Court.

Accordingly, it is recommended that Respondent forfeit 15 vacation days in this matter.



Respectfully submitted,

Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials

POLICE DEPARTMENT
CITY OF NEW YORK

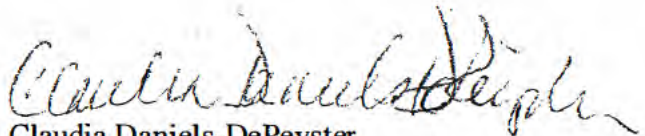
From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ROSETTE SAMUEL
TAX REGISTRY NO. 927469
DISCIPLINARY CASE NO. 84253/08

In 2009 and 2010, Respondent received an overall rating of 3.5 “Above Competent” on her annual performance evaluation. In 2011, she received a rating of 3.0 “Competent.” Respondent has not received any medals in her career to date.

[REDACTED]

Respondent has no prior formal disciplinary record.

For your consideration.


Claudia Daniels-DePeyster
Assistant Deputy Commissioner Trials